

Remarks

This document is filed in response to a Notice of Non-Compliant Amendment. The Amendment was deemed non-compliant because a complete listing of all of the claims, with accompanying identifiers, was not present. The above listing of claims corrects this oversight. The previously submitted amendment is unchanged as follows:

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment adds, changes, and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 40-44 and 47-58 have been cancelled. Claims 1-39 and 45-46 were previously cancelled. Claims 59-77 are being added. Accordingly, claims 59-77 are currently pending in the current application.

Claim Objections

Claims 40-44 were objected to because of informalities. Claims 40-44 have been canceled. Accordingly, withdrawal of the objection is respectfully requested.

Claim Rejections – 35 U.S.C. §112

Claims 41-44 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 41-44 have been canceled. Accordingly, withdrawal of the rejection under 35 U.S.C. §112 is respectfully requested.

Claim Rejections under 35 U.S.C. §103(a)

The Examiner rejected claims 40-44 and 46-58 under 35 U.S.C. §103(a) as being unpatentable in view of the cited prior art. Claims 4-44 and 46-58 have been cancelled.

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New Claims 59-77

New claims 59-77 have been added. Entry and consideration of new claims 59-77 is respectfully requested in view of the following.

Claim 59

New claim 59 recites an “interior opening into the specimen collection volume proximate to one side wall, removed from the bottom wall,” “whereby when the axis of the hub is horizontal, the interior opening in the specimen collection may be positioned by an operator in a top position such the sample material from the hypodermic needle entering the specimen collection volume collects against the opposite sidewall in a pool spaced from the interior opening, and when the axis of the hub is vertical with a distal end of the hypodermic needle extending downward, sample material collects against the bottom wall spaced from the interior opening to prevent reflux of the material through the interior opening.” This limitation is neither taught nor suggested by the prior art cited by the Examiner.

Neither U.S. Patent No. 4,967,762 to DeVries (hereinafter “DeVries”) nor U.S. Patent No. 5,086,782 to Zucker (hereinafter “Zucker”) teaches or suggests an interior opening into a specimen collection volume proximate to one side wall whereby sample material entering the specimen collection volume collects against an opposite side wall when the hub is positioned in a horizontal position. For example, DeVries shows an interior opening in the bottom wall and not a side wall (defined within claim 59 as the wall receiving the proximal end of hypodermic needle) while Zucker show an interior opening in a top wall. Additionally, neither of these references teaches or suggests a collection volume configured to receive a sample that is separated from the interior opening both when the device is positioned in a horizontal position and when the device is positioned in a vertical position.

Accordingly, the references cited by the Examiner do not teach or suggest all of the limitations of claim 59. Consideration and allowance of new claim 59 is respectfully requested.

Independent claims 68 and 77 include limitations similar to the above described limitations of claim 59. Consideration and allowance of these claims is respectfully requested.

Claims 60-67 depend from claim 59 and include all of the limitations thereof. Claim 69-76 depend from claim 68 and include all of the limitations thereof. These claims are allowable for at least the same reasons as the independent claims from which they depend. Consideration allowance of claims 60-67 and 69-76 is respectfully requested.

Conclusion

Applicant believes that the present application is in a condition for allowance. Applicant appreciates consideration of the above remarks and invites that the Examiner to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1170.

Respectfully submitted,

April 14, 2008

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